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12 **UNITED STATES DISTRICT COURT**  
13 **CENTRAL DISTRICT OF CALIFORNIA**

14 STAR FABRICS, INC., a California  
15 Corporation,

16 Plaintiff,

17 v.

18 B.P.T. USA, INC., a Florida Corporation;  
19 BEYOND THE RACK USA, INC., a  
20 Delaware Corporation; VALSAN OF  
21 MIAMI, INC., a Florida Corporation; and  
DOES 1 through 10,

Defendants.

Case No.:

PLAINTIFF'S COMPLAINT FOR  
COPYRIGHT INFRINGEMENT

Jury Trial Demanded

22  
23 Star Fabrics, Inc., by and through its undersigned attorneys, hereby prays to  
24 this honorable Court for relief based on the following:

25 **JURISDICTION AND VENUE**

26 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101  
27 *et seq.*



1 names, whether corporate, individual or otherwise, of Defendants 1 through 10,  
2 inclusive, are presently unknown to Plaintiff, which therefore sues said Defendants  
3 by such fictitious names, and will seek leave to amend this Complaint to show their  
4 true names and capacities when same have been ascertained.

5 9. Plaintiff is informed and believes and thereon alleges that at all times  
6 relevant hereto each of the Defendants was the agent, affiliate, officer, director,  
7 manager, principal, alter-ego, and/or employee of the remaining Defendants and was  
8 at all times acting within the scope of such agency, affiliation, alter-ego relationship  
9 and/or employment; and actively participated in or subsequently ratified and/or  
10 adopted each of the acts or conduct alleged, with full knowledge of all the facts and  
11 circumstances, including, but not limited to, full knowledge of each violation of  
12 Plaintiff's rights and the damages to Plaintiff proximately caused thereby.

13 **CLAIMS RELATED TO DESIGN NO. 60672**

14 10. Plaintiff owns an original two-dimensional artwork used for purposes of  
15 textile printing entitled 60672 ("Subject Design") which has been registered with the  
16 United States Copyright Office.

17 11. Prior to the acts complained of herein, Plaintiff widely disseminated fabric  
18 bearing Subject Design to numerous parties in the fashion and apparel industries.

19 12. Plaintiff is informed and believes and thereon alleges that following its  
20 distribution of Subject Design, BPT, BTR, VALSAN, DOE Defendants, and each of  
21 them distributed and/or sold fabric and/or garments featuring a design which is  
22 substantially similar to Subject Design (hereinafter "Subject Product") without  
23 Plaintiff's authorization, including but not limited to products sold by

24 a. VALSAN and bearing Style No. AE615 and RN 128659, indicating  
25 that it was manufactured by or for BPT.

26 b. BTR under Style No. FERF1211 and bearing the label "Feratelli."  
27

1 13. An image of Subject Design and an exemplar of Subject Product are set  
2 forth hereinbelow:

3 **Subject Design**



**Subject Product**



12  
13 **FIRST CLAIM FOR RELIEF**

14 (For Copyright Infringement - Against All Defendants, and Each)

15 14. Plaintiff repeats, realleges and incorporates herein by reference as though  
16 fully set forth the allegations contained in the preceding paragraphs of this  
17 Complaint.

18 15. Plaintiff is informed and believes and thereon alleges that Defendants, and  
19 each of them, had access to the Subject Design, including, without limitation,  
20 through (a) access to Plaintiff's showroom and/or design library; (b) access to  
21 illegally distributed copies of Subject Designs by third-party vendors and/or DOE  
22 Defendants, including without limitation international and/or overseas converters  
23 and printing mills; (c) access to Plaintiff's strike-offs and samples, and (d) access to  
24 garments in the marketplace manufactured with lawfully printed fabric bearing  
25 Subject Designs.

26 16. Plaintiff is informed and believes and thereon alleges that one or more of  
27 the Defendants manufactures garments and/or is a garment vendor. Plaintiff is

1 further informed and believes and thereon alleges that said Defendant(s), and each of  
2 them, has an ongoing business relationship with Defendant retailers, and each of  
3 them, and supplied garments to said retailers, which garments infringed Subject  
4 Designs in that said garments were composed of fabric which featured unauthorized  
5 print designs that were identical or substantially similar to Subject Designs, or were  
6 an illegal modification thereof.

7 17. Plaintiff is informed and believes and thereon alleges that Defendants, and  
8 each of them, infringed Plaintiff's copyright by creating, making and/or developing  
9 directly infringing and/or derivative works from Subject Designs and by producing,  
10 distributing and/or selling Subject Products through a nationwide network of retail  
11 stores, catalogues, and through on-line websites.

12 18. Due to Defendants', and each of their, acts of infringement, Plaintiff has  
13 suffered damages in an amount to be established at trial.

14 19. Due to Defendants', and each of their, acts of copyright infringement as  
15 alleged herein, Defendants, and each of them, have obtained profits they would not  
16 otherwise have realized but for their infringement of Subject Designs. As such,  
17 Plaintiff is entitled to disgorgement of Defendants', and each of their, profits  
18 attributable to the infringement of Subject Designs in an amount to be established at  
19 trial.

20 20. Plaintiff is informed and believes and thereon alleges that Defendants, and  
21 each of them, have committed copyright infringement with actual or constructive  
22 knowledge of Plaintiff's rights such that said acts of copyright infringement were,  
23 and continue to be, willful, intentional and malicious.

24 **PRAYER FOR RELIEF**

25 Wherefore, Plaintiff prays for judgment as follows:

- 26 a. That Defendants—each of them—and their respective agents and  
27 servants be enjoined from importing, manufacturing, distributing,  
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1 offering for sale, selling or otherwise trafficking in any product that  
2 infringes Plaintiff's copyrights in Subject Designs;

- 3 b. That Plaintiff be awarded all profits of Defendants, and each of them,  
4 plus all losses of Plaintiff, the exact sum to be proven at the time of trial,  
5 or, if elected before final judgment, statutory damages as available under  
6 the Copyright Act, 17 U.S.C. § 101 et seq.;
- 7 c. That Plaintiff be awarded its attorneys' fees as available under the  
8 Copyright Act U.S.C. § 101 et seq.;
- 9 d. That Plaintiff be awarded pre-judgment interest as allowed by law;
- 10 e. That Plaintiff be awarded the costs of this action; and
- 11 f. That Plaintiff be awarded such further legal and equitable relief as the  
12 Court deems proper.

13  
14 Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P.  
15 38 and the 7<sup>th</sup> Amendment to the United States Constitution.

16 Dated: January 4, 2016

DONIGER/BURROUGHS

17  
18 By: /s/ Stephen M. Doniger  
19 Stephen M. Doniger, Esq.  
20 Howard S. Han, Esq.  
21 Attorneys for Plaintiff  
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